

REMARKS

The present Amendment After Final Action is made in compliance with the requirements of 37 CFR §1.116. Claims 31 and 32 are cancelled without prejudice regarding their subject matter. Upon entry of the Amendment, claims 1-6, 8-12, 14-19, and 27-30 will be pending in the application. Applicant respectfully submits that upon entry of this Amendment the application will be in condition for allowance, as discussed in detail below. Thus, prompt and favorable consideration of this amendment is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-5, 27-28, and 31-32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Johnson et al (U.S. Pat. No. 5,683,469). This rejection is respectfully traversed.

Claims 31 and 32 are cancelled without prejudice regarding their subject matter.

Johnson et al fails to disclose all the limitations of independent claim 1. In particular, Johnson et al fails to disclose a handle having a longitudinal axis coaxially aligned to the center axis of the base, the handle coupled to the base only at an anterior base location that is offset relative to the center axis. Johnson et al does not disclose any handle that can be considered offset in any way relative to the tibial base. The Examiner indicated in the interview that the handle of Johnson et al is adjustable or may provide some "play", such that that the handle axis may become slightly offset. Applicant cannot find such disclosure in Johnson et al. The handle 14 of Johnson et al is slidably inserted into a slot 30 of the plastic insert and the *entire assembly of tray 11*,

insert 13, and stem 12 can be rotated by rotating lever 14. See column 6, lines 30-37.

There is no disclosure that the handle/lever 14 can be rotated relative to the tray 11 or the insert 13. Nevertheless, in the interest of moving the application toward allowance, independent claim 1 was amended to clarify that the location of the offset is immovable, so that handle cannot be attached without offset, at the Examiner's suggestion. Therefore, claim 1 is not anticipated by Johnson et al. Claims 2-5, 27, and 28 depend from claim 1, and at least for this reason, are not anticipated by Johnson et al.

Claims 8-12, 14, 16, and 29-30 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Burkinshaw et al (U.S. Pat. No. 6,159,216). This rejection is respectfully traversed.

Burkinshaw et al discloses a tibial base plate trial member 12 and a removable handle 18. The handle is symmetric and is symmetrically attached to the baseplate, with no offset of any kind.

Regarding independent claim 8, Burkinshaw et al clearly fails to disclose a link having first and second ends, the first end coupled to the base only at a position that is medially offset from the center axis, and a handle having a central longitudinal axis coaxially aligned with the center axis of the base, the handle coupled to the second end of the link. This claim is also amended at the suggestion of the Examiner to clarify that the location of the offset is immovable, for the same reasons as discussed above in connection with Johnson et al. Therefore, claim 8 is not anticipated by Burkinshaw et al and/or are not obvious in further view of Johnson et al. Claims 9-12, 14, 16, 29 and 30 depend from claim 1, and at least for this reason, are not anticipated by Burkinshaw et al and/or are not obvious in further view of Johnson et al.

REJECTION UNDER 35 U.S.C. § 103

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson et al. This rejection is respectfully traversed.

Claim 6 depends from claim 1, which, as discussed above, is not anticipated by Johnson et al. Therefore, claim 6 cannot be obvious over Johnson et al because Johnson et al fails to disclose all the elements of claim 1, as discussed above. Additionally, the base/tray 11 of Johnson et al cannot be reversible because it receives a plastic insert 13 on one side. See FIG. 10 and column 6, lines 19-24 and 35-40. Accordingly, Johnson et al teaches away from reversing the tray 11. Further, and for this additional reason Johnson et al needs to attach a handle 14 that is symmetric and not offset relative to the tray 11. Therefore, claim 6 is patentable over Johnson et al.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Burkinshaw et al. This rejection is respectfully traversed.

Claim 15 ultimately depends from independent claim 8, which, as discussed above, is not anticipated by Burkinshaw et al and therefore cannot be obvious over Burkinshaw et al, because Burkinshaw et al fails to disclose at least all the elements of independent claim 8. Further, claim 15 also depends from claim 14. Burkinshaw et al fails to disclose the additional limitation of claim 14 that the link defines a longitudinal axis that is at an angle with the center axis of the base.

Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Burkinshaw et al in view of Johnson et al. This rejection is respectfully traversed.

Independent claim 17 is amended to introduce the limitation discussed during the interview in connection with claim 1, to the effect that the first end of the handle is

coupled to the base only at an anterior base location that is immovably offset relative to the center axis. Accordingly, and as discussed above in connection with the interview summary, Johnson et al and Burkinshaw et al, either individually or in combination fail to disclose a handle having a central longitudinal axis parallel to the center axis of the tibial base, the handle having a first end, the first end coupled to the base only at an anterior base location that is immovably offset relative to the center axis, the first end having a medially offset cutout, the cutout defining a lateral clearance extending beyond the center axis of the base and beyond the longitudinal axis of the handle. Therefore, claim 17 is not obvious over Burkinshaw et al in view of Johnson et al. Claims 18 and 19 depend from claim 17 and, at least for this reason, patentable over by Burkinshaw et al in view of Johnson et al.

Reconsideration and withdrawal of these rejections is respectfully requested.

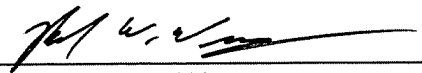
CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner

believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 

Richard W. Warner
Reg. No. 38,043
Maria Comninou
Reg. No. 44,626

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

RWW/MC/sms